

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of----- )  
 )  
 PUBLIC UTILITIES COMMISSION )  
 )  
 Instituting a Proceeding to )  
 Investigate the Implementation of )  
 Feed-in Tariffs. )  
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THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S  
REPLY BRIEF

AND

CERTIFICATE OF SERVICE

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**THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S  
REPLY BRIEF**

The Department of Business, Economic Development, and Tourism ("DBEDT"), by and through its Director ("Director") in his capacity as the Energy Resources Coordinator ("ERC"), through the undersigned Deputy Attorney General, hereby submits to the Hawaii Public Utilities Commission ("Commission" or "PUC") its Reply Brief in the above captioned docket, an investigatory proceeding on the implementation of feed-in tariffs.

INTRODUCTION

In this Reply Brief, DBEDT will address the positions of some parties on the following issues, and provide a summary of DBEDT's recommended general principles on the design of the feed-in tariffs:

- I. Whether the Commission should state a quantitative goal for renewables purchases in Hawaii generally and for FiTs specifically;
- II. Pricing process specifically relating to HECO's concept of competitive solicitation for resources up to 5 MW, and HECO's notion of hiring an independent consultant<sup>1</sup>;
- III. Review and comments on certain statements made by the Parties with respect to the legal questions asked by the Commission and the moderator; and
- IV. DBEDT's recommended general principles on the design of the feed-in tariffs.

#### DISCUSSION

**I. Should the Commission state a quantitative goal for renewable purchases in Hawaii generally and for FiTs specifically?**

Hawaii's Renewable Portfolio Standards (RPS) are found in Part V of chapter 269, Hawaii Revised Statutes (HRS). Section 269-92, HRS, mandates the amount of a utility's electricity sales that must be generated from renewable resources. The statute establishes the RPS but does not mandate how a utility may meet these standards, such as through renewable power purchases and/or through utility-owned renewable power generation. DBEDT recommends that the Commission establish

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<sup>1</sup> HECO/CA Joint Opening Brief, June 12, 2009, Pages 41, 59-60.

target goals in terms of total MW of renewable energy for the HECO Companies to purchase under the FiTs program.<sup>2</sup>

One of the "conclusions and general principles" proposed by the HECO Companies and the CA in their joint Opening Brief is that "[t]he initial FiT should include annual limits on the total amount of new renewable energy capacity that each island system may accept via FiT..."<sup>3</sup>. HECO and the CA also indicated that it is reasonable to place appropriate limits on the amount of electricity to be purchased under a FiT, both as a means to ensure that total program costs to the ratepayers are reasonable and to insure that system security and reliability is maintained.<sup>4</sup> However, neither HECO nor the CA proposed any target amount.

As discussed in DBEDT's Opening Brief, it is reasonable to set total target MW goals for renewable purchases under a FiT for each island.<sup>5</sup> DBEDT's position, as stated in its FSOP, is to base the target goal for the initial FiT on the HECO Companies' commitments in the Energy Agreement. The total HECO commitments for 2010 and 2015 in the Energy Agreement are summarized as follows:

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<sup>2</sup> DBEDT Opening Brief, June 12, 2009, Pages 87-89.

<sup>3</sup> HECO/CA Joint Opening Brief, June 12, 2009, Page 41.

<sup>4</sup> HECO/CA Joint Opening Brief, June 12, 2009, Page 82.

<sup>5</sup> DBEDT Opening Brief, June 12, 2009, Page 88.

RENEWABLE RESOURCE COMMITMENTS (MW) IN THE ENERGY AGREEMENT				
Year	HECO	HELCO	MECO	TOTAL
2010	43.5	13.6	7.2	64.3
2015	96.5	49.2	69.5	215.2
<b>TOTAL</b>	<b>140.0</b>	<b>62.8</b>	<b>76.7</b>	<b>279.5</b>

Includes IPP projects, PV through FiTs, PV Host Program, and NEM.  
HECO's total excludes the 400 MW Big Wind projects and the RFP for 100 MW.

The above totals include the renewable power generation commitments except for the Big Wind project (400 MW) and the 100 MW renewable powers in HECO's RFP. These total targets also do not include the energy efficiency measures such as the utility commitments for Pay-as-You-Save Solar Program, DGs, Demand Response, and Pricing Programs. DBEDT believes that these renewable generation commitments are reasonable target goals for the initial FiT program. As acknowledged in the HECO/CA Joint Opening Brief as well as in DBEDT's Opening Brief, the Energy Agreement is binding on the Signatories and recognizes that some commitments and initiatives in the Agreement, such as FiTs, require PUC approval before they can be implemented. Basing the target goal of the initial FiT program on the above commitments for 2010 and 2015 is reasonable as the utilities must have considered the feasibility of integrating this total MW, and more, of renewable power into the grid, having committed to them in the Energy Agreement.

An alternative method for establishing the target MW goals for the initial FiT program as suggested in DBEDT's Opening Brief is to base it as a percentage of the system peak of each HECO Company. The NEM program's limits on the total customer-generator capacities were established based on the same basis (i.e., HECO's limit is based on 1% of HECO's system peak, and MECO's and HELCO's are based on 3% of their respective system peaks.) If this alternative method is used, DBEDT supports basing the target goal on 15% of the 2008 system peak loads of each of the HECO Companies as summarized below.

	<b>Target Goals at Distribution Voltage (MW)</b>	<b>Target Goals at Transmission Voltage (MW)</b>	<b>TOTAL Target Goals (MW)</b>
HECO	175	175	350
HELCO	30	30	60
MECO	30	30	60
<b>TOTAL</b>	235	235	470

Based on 2008 System Peaks: HECO=1186 MW, HELCO=198.2 MW, MECO=198.2 MW.

The proposed percentage of 15% is based on the same percentage of the per circuit peak load limit proposed by HECO for the interconnection process that would trigger additional utility analysis. The system peak loads for 2008 is the latest recorded system peak loads of the HECO Companies, whose peaks normally occur in the winter months, and hence are not yet available for the current year (2009). Unlike the NEM program

limits however, the proposal to use a fixed base year will effectively set target MW goals for the initial FiTs that would allow the determination of the rate impact of the initial program when the FiT rates are determined and proposed. The total target MW goals for HELCO and MECO based on this method are lower than those based on the commitments in the Energy Agreement. HECO's total target of 350 MW is higher but DBEDT believes that this is reasonable given the current negligible amount of renewable generation in HECO's system.

#### **II.A. What are appropriate methodologies for calculating FiT rates?**

Most Parties in the docket agree that the FiTs rates should be based on the project costs plus a reasonable return on investment, and differentiated by island, by resource type, and by project size. There is also the common desire that the preferred cost data is the cost of Hawaii-based and Hawaii-specific projects. However, to the extent that Hawaii-specific data is not available, secondary data sources for industry costs may fill the information gap for setting the initial FiT rates. There is also recognition that the initial FiT rates have to be periodically reviewed and updated, and some Parties have recommended that the first update should take place two years after the implementation of the initial FiT program.

As stated in DBEDT's FSOP, the instant docket should aim at adopting the best designed feed-in tariffs given the current information available, and allow for periodic evaluation and review by the Commission as Hawaii gains experience in purchases of renewable energy under the initial feed-in tariffs resulting from this proceeding. Delaying the adoption and implementation of a FiT in the desire to get the 'perfect' information will not be in the State's best interest, as such delay and inaction will perpetuate Hawaii's heavy dependence on imported fossil fuel and its attendant adverse impact on Hawaii's economy and environment. Besides, such delay and inaction will not guarantee that perfect information will be available.

The HECO/CA Joint Opening Brief indicated that because of the greater flexibility provided by the Oahu grid, HECO supports the notion that a FiT can be established for larger projects, perhaps up to 5 MW, but conditions such support on its claim that appropriate pricing for such projects must be established.<sup>6</sup> HECO then states that:

"HECO believes that the most appropriate mechanism to establish sound pricing basis for a future FiT for larger resources up to 5 MW ... is to conduct a competitive solicitation for such resources in the near term for Oahu ... to provide valuable pricing information ... to be considered in the first FiT update ..."<sup>7</sup>

DBEDT offers the following response to HECO's proposal above:

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<sup>6</sup> HECO/CA Joint Opening Brief, June 12, 2009, Pages 40-41.

<sup>7</sup> HECO/CA Joint Opening Brief, June 12, 2009, Page 41. Emphasis added.



1. HECO's support for 5 MW size projects for Oahu is now pre-conditioned on its desire to establish appropriate pricing, and believes that this could be done by conducting competitive solicitation for such resources. DBEDT is not sure whether HECO understands the concept of a FiT program, which has been extensively discussed in this docket, and how and why it is different and preferred to HECO's existing bid (and non-bid) procurement methods (such as its new proposal for 5 MW size projects). DBEDT is opposed to HECO's proposal to competitively bid 5 MW renewable project sizes for the supposed purpose of gathering cost information for use in the first FiT update. HECO's proposal is not consistent with the feed-in tariffs concept. IT IS NOT FiTs. First of all, the intent to use the cost data for the first FiT update implies that there will be an initial FiT for 5 MW size projects. How then can HECO procure for the same resources through competitive bidding? If HECO's intent is to not have a FiT for 5 MW projects in the initial FiT program because of its desire for "appropriate pricing", how is this consistent with HECO's general principle proposal supporting the use of secondary data source to the extent that Hawaii-specific data is not available?

2. HECO's proposal does not ensure that the cost data it will receive from the bidders can be treated as public information that can be used for setting FiTs rates.
3. HECO must be getting unsolicited proposals with cost data for the 5 MW project size that it can use for setting FiTs rates for this project size without violating the confidentiality nature of those data. DBEDT believes that HECO's proposal to bid-out 5 MW size projects, supposedly to gather cost data, is unnecessary and is NOT consistent with the concept of FiTs.
4. HECO's new proposal to competitively bid 5 MW size projects does not support and is not aligned with the goal of the Energy Agreement to support, promote, and accelerate the development of renewable resources in Hawaii.

HECO's proposal to competitively bid 5 MW projects for Oahu is a regressive step and will unnecessarily slow down the implementation of a true FiT. HECO's proposal will most certainly jeopardize and delay the adoption of a FiTs program that will truly work and achieve its intent of promoting and accelerating the development of renewable resources in Hawaii to help reduce Hawaii's heavy dependence on imported fossil fuel. DBEDT believes that the reasonable project size limit for Oahu for the initial FiT program is 5 MW for Oahu. HECO has not

shown any factual physical limitation to integrating this project size to the Oahu grid, and its desire for "appropriate pricing" should not determine what project sizes to include or not include in the initial FiT program.

**II.B: What are appropriate methodologies for calculating FiT rates?**

DBEDT offers the following response and comments to HECO's proposal to hire (or pay for) a consultant to compile cost data for each FiT-eligible resource.<sup>8</sup>

First, DBEDT agrees with HECO's position that the preferred cost data for setting FiTs rates is the cost of Hawaii-based or Hawaii-specific projects, and to the extent that Hawaii-specific cost data is not available that secondary data sources, reasonably adjusted to reflect the Hawaii market, may fill the information gap.<sup>9</sup> DBEDT therefore recommends that the information which the consultant will gather and compile may be used in the first update of the FiT program unless they become available in time for the settlement discussions among the Parties to apply the PUC principles to actual tariffs, scheduled in August 2009 pursuant to the PUC's letter dated May 21, 2009.

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<sup>8</sup> HECO/CA Joint Opening Brief, June 12, 2009, Pages 59-60.

<sup>9</sup> DBEDT Opening Brief, June 12, 2009, Pages 61-62. HECO/CA Joint Opening Brief, June 12, 2009, Page 6.

DBEDT also recommends that the hiring of a consultant should not delay the adoption of the initial feed-in tariffs.

Second, given HECO's proposal to hire or pay for a consultant to do the cost data gathering, DBEDT does not understand HECO's need or basis to competitively bid the 5 MW projects to establish a sound pricing basis for this project size.

Third, DBEDT recommends that the data that the consultant will collect should be filed and become part of the evidentiary record in this docket and made available to all the Parties in this docket.

### **III. Comments on certain legal principles**

This section examines the comments and conclusions of certain Parties, primarily those of HECO and the CA, as set forth in their Joint Responses to Legal Questions Regarding Feed-in Tariffs (Joint Response) filed on June 12, 2009 in this docket.

**III.A. PURPA and state law.** Although there are many statements in the Joint Response that appear consistent with foreclosing the possibility of a valid FiT being authorized by the Commission at a rate that could be "above the utility's avoided cost" (however that term may be defined; *see below*), it is not until page 19 of the Joint Response's 20 page introduction to federal PURPA and state law concerns that

current law is even mentioned. Most of the discussion in the preceding 95% of the section dealing with this important topic deals with the genesis and development of the law in this area, and although helpful in explaining why the area is complex and confusing, it does not actually clear the confusion. We suggest that the reason for the delay in introducing the current state of the law is that it is only recent developments in the law that have made the confusing and complex question of PURPA preemption of state law regulation more clear.

On page 10 of the Joint Response, HECO states that "FERC has held that jurisdiction over the rates charged by QFs for sales at wholesale... is vested in FERC, and that PURPA preempts state statutes or regulations that would require the payment of a rate in excess of avoided cost... to QFs." Buried in the footnote below this statement however is the concession by FERC that state commissions can require payment rates in excess of avoided costs for entities that are not QFs or public utilities (under the Federal Power Act). As explained on page 97 of DBEDT's Opening Brief, for an entity to be deemed a "public utility" under the FPA requires a finding of energy sales made in interstate commerce; to date sales of electrical energy in Hawaii are not made in interstate commerce. Thus it would appear that this commonly cited aspect of FERC's limitations on state commission's ability to authorize rates above the

utility's avoided cost does not apply here (and see generally DBEDT's Opening Brief at pp. 95 - 98).

Further, HECO asserts on page 11 of the Joint Response that "FERC's avoided cost cap rulings appear to preclude the payment of an 'externalities' adder to a renewable energy producer." This statement is advanced by HECO to attack the proposition advanced by some Intervenor Parties that even if avoided cost caps apply, costs avoided should include things like environmental, societal, and health costs avoided. The very term "externalities" appears to have been coined to suggest a diminution of importance or remoteness in salience of these considerations. DBEDT argues however that when some of these "externalities" become law, they are no longer "external", and must be included in any valid cost calculation. Two examples of former externalities acquiring the force of law in this State are the Renewable Portfolio Standards law and the mandate in section 269-6(b), HRS, that the Commission consider the need for increased renewable energy in rendering decisions on utility matters. Indeed, HECO concedes on page 27 of the Joint Response that "if energy from a renewable source were more expensive than energy from fossil fuel, the Commission may still approve the purchase of energy from the renewable resource", citing this statutory provision as support. The implications from this for

the Commission's authority to approve rates above avoided cost are clear.

Indeed, DBEDT believes HECO summed up this area of changing law best, referring to what had changed and what remained the same in section 269-27.2, HRS, when it articulated at pages 19 - 20 of its Joint Response that "[w]hat has changed is the standard to be applied by the Commission in setting the rate payable by the public utility to the producer for the nonfossil fuel generated electricity in the event the public utility and the supplier fail to reach an agreement for a rate." The amendment to section 269-27.2 and to the definition section of the RPS law, both eliminating crucial reference to avoided cost, along with the recent changes to chapter 269, do indeed make it clear that the standard for the Commission's decision has changed from the mid-1990's, when FERC issued its series of pronouncements that remained largely unchallenged in the federal courts. The legislative intent promoting increased renewable energy use has moved from "externality" to reality. So, both FERC's rulings and state law amendments have coalesced toward a middle ground where the avoided cost ceiling may be transcended for just and reasonable goals.

We must also not lose sight of an important provision in PURPA that is echoed in state law as well. In the regulations implementing PURPA, it is stated that "[n]othing in this

subpart: (1) [l]imits the authority of any electric utility or any [QF] to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by this subpart; or (2) [a]ffects the validity of any contract entered into between a [QF] and an electric utility for any purchase." 18 C.F.R. 292.301(b). In parallel, section 269-27.2(c), HRS, states in pertinent part that "[t]he rate payable by the public utility to the producer for the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission." Therefore, the concept of avoided cost is not even raised statutorily if a willing buyer and seller make an agreement. A feed-in tariff has been described in this docket as a standardized, open offer to purchase renewable energy by the utility. When a nonfossil fuel producer sells under the feed-in tariff, it has accepted that open, standardized offer to buy. Therefore, even if a Hawaii nonfossil fuel producer is found to be a QF, deemed to be selling in interstate commerce, or not accorded the accounting of the "external" factors now in the statute to calculate avoided cost, a feed-in tariff approved by the Commission would still allow for sales at rates above avoided cost, since that



statutory limit, however perceived, is not applicable in these circumstances.

For all these reasons, the Commission has the authority to establish a valid FiT without reference to the avoided cost limitation of PURPA.

### **III.B. Legal Status of the Energy Agreement**

DBEDT agrees with the statement in the Joint Response that "[t]he Energy Agreement is a document containing both binding and non-binding provisions..." It is clear that the Commission is not bound by the Energy Agreement since it is not a party to the Agreement; further, a quasi-judicial body could not contract in an area in which it must render decisions, thereby *a priori* binding itself to certain results. If the concern underlying the moderator's question on this matter was that the Energy Agreement was being invoked often enough in this docket that Parties might feel the PUC was bound by it, such concern should be allayed. On the other hand, no Party should lightly dismiss the Energy Agreement either. There are undertakings in the Agreement that constrain some of the actions of the signatories, and in this sense the Energy Agreement does have importance. As has already been pointed out, the intragovernmental wheeling, decoupling, and feed-in tariff dockets were all informed by applicable provisions of the Energy Agreement. All the

signatories to the Agreement are politically sensitive entities whose course of conduct has to some extent been circumscribed by the undertakings set forth in it. For instance, HECO has "committed to integrating the maximum attainable amount of wind energy on their systems."

#### **IV. SUMMARY OF DBEDT'S GENERAL PRINCIPLES PROPOSAL FOR FiTs**

##### **DESIGN**

This section summarizes DBEDT's proposed general principles for the design of the initial FiT program for the HECO Companies:

1. FiTs are an effective and critical mechanism for achieving Hawaii's clean energy and energy independence goals, and it is imperative that a FiTs program for the HECO Companies' service territories be implemented as soon as possible.<sup>10</sup>
2. FiTs should replace the HECO Companies' future procurements from small qualifying facilities currently acquired through Schedule Q for FiTs-eligible resources.<sup>11</sup>
3. It is reasonable to allow the five existing small Schedule Q generators in HELCO to transition to FiTs.<sup>12</sup>
4. The net energy metering program is an effective mechanism in promoting customer-sited renewable systems and should

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<sup>10</sup> DBEDT Opening Brief, June 12, 2009, Pages 19 - 26.

<sup>11</sup> DBEDT Opening Brief, June 12, 2009, Pages 26-27.

<sup>12</sup> DBEDT Opening Brief, June 12, 2009, Pages 27-28.

continue to apply to current and future net energy metered customers.<sup>13</sup>

5. FiTs should replace the non-bid purchase power contracting for the procurement of FiTs-eligible renewable resources with capacity size up to 5 MW for HECO (Oahu), and up to 3 MW for HELCO and MECO.<sup>14</sup>
6. The factual quantitative evidence on the physical limitation of the HECO systems' ability to accept renewable resources needs to be established in the evidentiary record of this proceeding by requiring the HECO Companies to file the information identified in DBEDT's Opening Brief, pages 47-48.
7. The initial FiT program should be extended to commercially available, RPS-eligible renewable resources and technologies which have operational experience in Hawaii. The renewable resources for the initial FiT should include wind, solar (PV and CSP), and hydro. Other RPS-eligible resources including geothermal, bio-mass, and bio-gas should be considered in the first FiT update.<sup>15</sup>

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<sup>13</sup> DBEDT Opening Brief, June 12, 2009, Pages 33-36.

<sup>14</sup> DBEDT Opening Brief, June 12, 2009, Pages 39-40.

<sup>15</sup> DBEDT Opening Brief, June 12, 2009, Pages 51-54.

8. The initial FiT program should apply to renewable generators with capacity size up to 5 MW for Oahu, 3 MW for HELCO and MECO.<sup>16</sup>
9. The initial FiTs should include total target MW goals of renewable purchases under a FiT for each island. As discussed above, DBEDT recommends that the target goals be established based on the HECO Companies' commitments in the Energy Agreement or be set at 15% of the system peak load of each of the HECO Companies as discussed above
10. The FiT rates should be based on the project costs plus a reasonable return on investment, and differentiated by island, by resource type, by project size, and by interconnection costs. The specific project costs and other pricing principles are discussed in DBEDT's Opening Brief, pages 58-65.
11. The currently effective tax credits, rebates, and other incentives should be included in the determination of the FiTs rates.<sup>17</sup>
12. The interconnection costs incurred by the developers should be included in the FiTs rates.<sup>18</sup>

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<sup>16</sup> DBEDT Opening Brief, June 12, 2009, Pages 54-58.

<sup>17</sup> DBEDT Opening Brief, June 12, 2009, Pages 59-60.

<sup>18</sup> DBEDT Opening Brief, June 12, 2009, Pages 60-61.

13. The FiTs tariff should include a clear delineation of the responsibility of the utility and the project developer for interconnection costs.

14. DBEDT proposes generally that the costs of interconnection requirements on the utility side of the interconnection point should be borne by the utilities, and the costs of the interconnection requirements on the project side of the meter be borne by the project developer.<sup>19</sup> DBEDT generally supports the allocation of the interconnection costs proposed by HSEA, Solar Alliance, and SOPOGY in their Opening Briefs filed on June 12, 2009. DBEDT however reserves its right to modify its position upon receipt of more information from the HECO Companies relating to the three studies they identified in their Supplemental Information submittal to the Commission filed on May 8, 2009.<sup>20</sup>

15. The FiTs tariff must include clear and transparent interconnection rules, standards, and procedures.<sup>21</sup>

16. The determination of the FiTs rates should neither be based nor guided by the HECO Companies' avoided costs,

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<sup>19</sup> DBEDT Opening Brief, June 12, 2009, Pages 79-85.

<sup>20</sup> DBEDT Opening Brief, June 12, 2009, Pages 82-83.

<sup>21</sup> DBEDT Opening Brief, June 12, 2009, Pages 79-85.

which are generally based on the price of imported fossil fuel.<sup>22</sup>

17. The preferred cost data is the cost of Hawaii-based or Hawaii-specific projects. To the extent that Hawaii-specific cost data is not available, secondary data sources for industry costs, appropriately adjusted to reflect Hawaii market, may fill the information gap.<sup>21</sup>

18. The renewable energy purchased by the HECO Companies under the FiTs program will count toward the utilities' RPS. The FiTs rates should not include an estimated value for the green attributes of the FiTs-eligible resource.<sup>23</sup>

19. The determination of the FiT rates should include project performance through an estimate of capacity factor in the determination of the revenue stream of a resource project.<sup>24</sup>

20. The FiTs terms and conditions should include specific provisions for a reasonable, cost-effective, and non-discriminatory curtailment provision. The FiTs rates should factor in the impact of curtailment through an adjustment to the capacity factor used in determining the revenue stream of a resource project.<sup>25</sup>

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<sup>22</sup> DBEDT Opening Brief, June 12, 2009, Page 61.

<sup>23</sup> DBEDT Opening Brief, June 12, 2009, Pages 62-63.

<sup>24</sup> DBEDT Opening Brief, June 12, Page 63-64.

<sup>25</sup> DBEDT Opening Brief, June 12, 2009, Page 64.

21. The FiTs costs must be compared with the FiTs benefits over the entire term of the FiTs program.<sup>26</sup>
22. The contract term for the FiTs agreement should be 20 years as agreed to and supported by the Parties in this docket.<sup>27</sup>
23. FiTs should apply to the incremental capacity for FiTs-eligible projects as well as for existing projects with non-FiTs PPAs.
24. DBEDT recommends that the initial FiTs should be evaluated and updated annually during the initial 5 years, and every 2 years for the next ten years or until the PUC deems the FiT design to be sound. However, if FiTs is updated 2 years after implementation as proposed by HECO, DBEDT recommends that the utility files an annual report to the commission as discussed in DBEDT's Opening Brief, pages 71-74.
25. The utilities' concern relating to the accounting treatment of power purchases through FiTs should not determine the resource type or project size to include or not include in FiTs. The potential impact of the accounting issues raised by the HECO Companies is not germane to power purchases through FiTs and are better

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<sup>26</sup> DBEDT Opening Brief, June 12, 2009, Pages 64, 90-92.

<sup>27</sup> DBEDT Opening Brief, June 12, 2009, Pages 65-69.

addressed in the Companies' general rate case filings where such financial impacts are normally reflected in the determination of the utilities' rate of return and rate increase award.<sup>28</sup>

26. DBEDT recommends that a separate purchased power cost recovery mechanism that is similar but separate from ECAC be implemented to allow the utilities to recover the costs of renewable power purchases through FiTs or other mechanism, subject to PUC approval.<sup>29</sup>

DATED: Honolulu, Hawaii, June 26, 2009.



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<sup>28</sup> DBEDT Opening Brief, June 12, 2009, Pages 74-76.

<sup>29</sup> DBEDT Opening Brief, June 12, 2009, Pages 76-77.



Certificate of Service

I hereby certify that I have served a copy of the Department of Business, Economic Development, and Tourism's Reply Brief in PUC Docket Number 2008-0273, by electronic transmission on the date of signature to each of the parties listed below.

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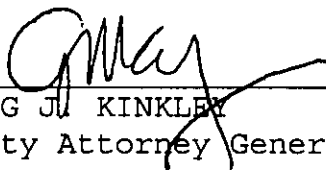
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